

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
EASTERN/DUBUQUE DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

MARIO CUM-XICAY, a/k/a J. DOE
116, a/k/a MARIO CUM-XICAY,

Defendant.

No. CR 88-1116

**REPORT AND RECOMMENDATION
CONCERNING PLEA OF GUILTY**

On this date, the defendant, by consent, appeared before the undersigned United States Magistrate Judge pursuant to Federal Rule of Criminal Procedure 11, and pled guilty to the Information. After cautioning and examining the defendant under oath concerning each of the subjects mentioned in Rule 11, the court determined that the guilty plea(s) was/were knowledgeable and voluntary, and the offense(s) charged was/were supported by an independent basis in fact supporting each of the essential elements of the offense(s). The court therefore **RECOMMENDS** that the plea(s) of guilty be accepted and the defendant be adjudged guilty.

The defendant has pled guilty under Rule 11(C)(1)(c) pursuant to a plea agreement with the Government. At the plea hearing, the Court determined that the defendant understands that the terms of the plea agreement provide for a specific sentence; that a District Judge will consider whether or not to accept the plea agreement; that if the District Judge decides to accept the plea agreement, then the defendant will receive the agreed sentence; and that if the District Judge rejects the plea agreement, then the defendant will have an opportunity to withdraw the plea(s) of guilty and plead not guilty.

The court finds the defendant's guilty plea(s) was/were voluntary, knowing, and

not the result of force, threats or promises, except plea agreement promises. The defendant is fully competent and is aware of the maximum punishment. The defendant knows of the right to trial by jury, and has voluntarily waived that right. There is a factual basis for the plea(s), and the defendant is, in fact, guilty of the crime(s) charged in the Information.

Dated this 19th day of May, 2008.



MAGISTRATE JUDGE
UNITED STATES DISTRICT COURT